

health of one so advanced in years, and reduced by infirmities. The relation however in which all the parties concerned stand to the complainant will, it is believed, insure proper respect and attention to her personal comfort and security. And the register is directed to transmit a copy of this order to the solicitor for the defendant.

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The taking of proofs and the hearing of this matter were several times postponed at the instance of the plaintiff's solicitors; and a further short delay having been granted by an order of the 29th March 1827, the matter was soon after that brought before the court.

17th April, 1827.—BLAND, Chancellor.—The matter of the petition to reinstate this case standing ready for hearing, the solicitors of the parties were fully heard; all the proceedings and proofs were read; and the plaintiff, *Colegate D. Owings*, having been brought into the presence of the Chancellor, he interrogated and conversed with her as to the subject in controversy, and also on various matters having a tendency toward, or connected with it. All of which the Chancellor has deliberated upon and maturely considered.

The case is of a peculiar and extraordinary nature. It is not alleged, nor does it in any way appear, that at the institution of this suit any thing was done that ought not to have been done; or that this proceeding was an improper one with a view to the rights and interests of the plaintiff.(a) A cloud has been impended over the title to the property mentioned in the proceedings, which threatens to gather and thicken by delay. The means of dispersing it, the proofs in relation to the controversy, may be more entirely, readily, and cheaply obtained now than at any future period; therefore, justice as well as the peace and interests of all concerned, seem strongly to require that the suit which had been begun should be reinstated, and now prosecuted with as little delay as may be to a final decision upon its merits, as prayed by the petition.(b)

The order for dismissing it was given before the return of the commission for taking testimony; and, as it would seem, before all the testimony, pertinent to the matter and within reach of the parties, had been taken. For it appears, that some of the proofs collected under the petition might be brought to bear upon the principal case. I therefore deem it improper at this stage of the

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(a) *Wartnaby v. Wartnaby*, Jac. Rep. 377.—(b) 1 Coll. Idiots, 30; *Holman v. Holman*, 3 Desau. 210.